

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6208

BILL NUMBER: SB 81

NOTE PREPARED: Mar 11, 2010

BILL AMENDED: Mar 10, 2010

SUBJECT: Various Criminal Law Matters..

FIRST AUTHOR: Sen. Arnold

FIRST SPONSOR: Rep. L. Lawson

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. *Criminal Law and Sentencing Policy Study Committee* – It establishes the 14-member Criminal Law and Sentencing Policy Study Committee (study committee) to evaluate criminal laws and sentencing policies. It repeals laws establishing the Sentencing Policy Study Committee. It adds topics for the study committee to study and make recommendations about in the 2010 interim.
- B. *Resisting Law Enforcement and License Suspension* – It provides that the driver's license of a person convicted of resisting law enforcement while using a vehicle and: (1) exceeding the speed limit by at least 20 miles per hour; (2) committing criminal recklessness; or (3) engaging in reckless driving with a vehicle; may be suspended for one year for a first offense and two years for a second or subsequent offense.
- C. *License Suspension* – It provides that if a person receives a sentence that includes: (1) a term of incarceration; and (2) a driver's license suspension; the driver's license suspension begins on the date the person is released from incarceration and not on the date the person is convicted.
- D. *Hardship License* – It specifies in which court a petition for a hardship license must be filed. It requires the court to notify the Bureau of Motor Vehicles (BMV) of the person's conviction, and specifies that the convicted person has the burden of applying for a new or renewal license and establishing that the one-year or two-year period has elapsed.
- E. *Penalty Enhancement for Second Unrelated Conviction for Operating a Vehicle Without a Valid License* – It enhances the penalty and prohibits a person from receiving a driver's license if a person has a second unrelated conviction for knowingly or intentionally operating a motor vehicle and has never received a valid driver's license.

Effective Date: Upon passage; July 1, 2010.

Explanation of State Expenditures: *Criminal Law and Sentencing Policy Study Committee* – This bill establishes a 14-member study committee consisting of eight legislators, one person who has experience in administering probation programs, one trial court judge, the executive directors of the Prosecuting Attorneys Council and the Public Defender Council, the commissioner of the Department of Correction, and the chairman of the Indiana Parole Board. The committee is to operate under the policies governing study committees adopted by the Legislative Council. Legislative Council resolutions in the past have established budgets for interim study committees in the amount of \$9,500 per interim for committees with fewer than 16 members.

Under current law, the authorizing statute for the Sentencing Policy Study Committee was scheduled to expire on December 31, 2010. Consequently, this bill would be a continuation of past committee expenditures and not new expenditures for FY 2011.

The Indiana Criminal Justice Institute and the Legislative Services Agency would provide staff support to the committee.

Resisting Law Enforcement and License Suspension – For the BMV, the suspensions required in this proposal will be handled under current suspension procedures and will require no additional expenditures on the part of the BMV. The fund affected is the Motor Vehicle Highway Account, which supports the BMV. The BMV has averaged about 328,000 suspensions annually for the period CY 2004 through CY 2008.

Hardship License – For calendar years 2005 through 2008, the BMV suspended, on average, 2,450 driver's licenses for being a habitual traffic offender. For the same period, the BMV averaged 350,000 total suspensions annually. For CY 2009, the BMV issued 784 hardship licenses and 790 licenses requiring the use of an ignition interlock device. The provisions of this proposal would be covered with current resources. The fund affected is the Motor Vehicle Highway Account, which supports the BMV.

Explanation of State Revenues: *Penalty Enhancement for Second Unrelated Conviction for Operating a Vehicle Without a Valid License* – If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small.

LSA cannot predict the number of persons who might be subject to a Class A misdemeanor because they committed a second unrelated offense. The following table shows the number of persons who were cited for operating a vehicle without a license between CY 2004 and 2008. The number of Class A misdemeanants would be a subset of this table. BMV would likely be able to prohibit the issue of new licenses to these people with the resources it now has.

BMV Citations for Operating a Vehicle without a Valid Driver's License				
2004	2005	2006	2007	2008
4,517	5,696	4,956	8,093	6,573

Explanation of Local Expenditures: *Hardship License* – Requiring ignition interlock devices would result in minimal costs to counties. Counties do not incur additional costs when a court orders a person convicted

of operating a vehicle while intoxicated to install and maintain an ignition interlock system. Persons who are ordered to install and properly maintain an ignition interlock system on their vehicle pay the entire cost of the operation. The average fee for installing an ignition interlock device is between \$70 and \$100, and the average cost of maintaining the device is between \$30 and \$60 per month. While current law does not require indigent persons convicted of being a habitual traffic violator to pay the cost of installing and maintaining an ignition interlock device, courts are not required to pay the cost of installing and maintaining an ignition interlock device, either.

Not all counties in which the hardship licenses were issued also had ignition interlock orders in CY 2009. When examining the number of counties in which courts had issued hardship licenses, LSA found that 17 counties did not have ignition interlock orders for any persons with hardship licenses. The average number of hardship licenses issued in these counties was 3.3, with a range from 1 to 16 hardship licenses ordered. Whether these counties would have any difficulty arranging for ignition interlock service with a vendor is not known.

Penalty Enhancement for Second Unrelated Conviction for Operating a Vehicle Without a Valid License – A Class A misdemeanor is punishable by up to one year in jail.

Explanation of Local Revenues: *Penalty Enhancement for Second Unrelated Conviction for Operating a Vehicle Without a Valid License* – If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

State Agencies Affected: Indiana Criminal Justice Institute; Legislative Services Agency; BMV.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: BMV driver license data.

Fiscal Analyst: Mark Goodpaster, 317-232-9852; James Sperlik, 317-232-9866.